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FIRE MANAGEMENT

Subchapter 1

Fire Prevention on Forest Lands

36.10.101 CLASSIFICATION OF FOREST LANDS

(1) Forest lands for fire protection purposes is defined as any land which has in the judgment of the department a fire menace to life or property, provided that grassland and agricultural areas are included when such areas are intermingled with or contiguous to areas of forest land. The attached map indicates forest land areas in Montana for forest fire protection by the department.

(2) Class I Land shall include all forest lands primarily suitable for production of timber and forest land primarily suitable for joint use for timber production and the grazing of livestock as a permanent or semi-permanent joint use or as a temporary joint use during the interim between logging and reforestation.

(a) Detailed definition. Class I Forest Lands include:

(i) lands which are at least 10 percent stocked by trees of any size and capable of producing timber or other wood products;

(ii) land from which the trees described in (i) have been removed to less than 10 percent stocking but which have not been developed for other use;

(iii) land not necessarily producing timber or other wood products, but 10 percent stocked with conifer trees and generally surrounded by land described in (i) and (ii) above. This land is not primarily suitable for grazing or other agricultural purposes;

(iv) areas producing good individual trees strewn with boulders or cliffs restricting harvest of products, but the trees are in themselves commercial; or

(v) cottonwood and other hardwood cover types only when adjacent to land described in (i), (ii), or (iii) above.

(b) Detailed definition. Class II shall include:

(i) lands primarily suitable for grazing, range lands, which are intermingled with or contiguous to Class I;

(ii) lands primarily suitable for other agricultural purposes which are intermingled with or contiguous to Class I agricultural cropland only when the area is adjacent to Class I or intermingled therewith;

(iii) lands primarily grazing but covered with cottonwood, intermingled with other Class II;

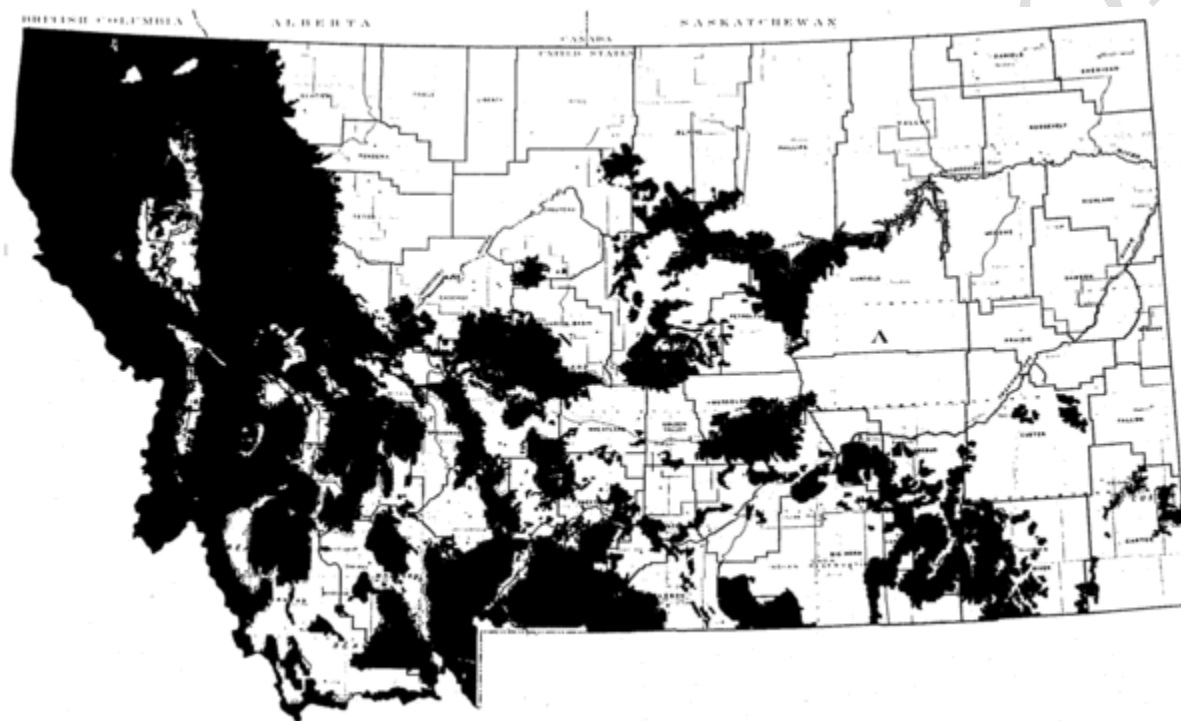
(iv) gold-dredge lands;

(v) alpine rock areas, bare rock and grass intermingled; or

(vi) non-commercial forest land when this land area is producing scattered individual or groups of trees but not having the soil, water, weather, aspect, and other factors needed for growing usable sawtimber, i.e., short, scrubby slow growing, and few, if any, of the stems will make a sawlog. "Contiguous" includes land within one-half mile of Class I lands bounded by suitable road, stream, firebreak, or forty line.

(4) Class 0 Land is other lands that do not meet the definitions of Class I and II lands. (cottonwood and other hardwood when isolated from forest lands as defined above shall not in itself warrant a district) . Areas in which the concentration of residences and other buildings in the opinion of the administrator, division of forestry, makes the primary fire protection problem one of structural fires rather than forest fires will not be classified as forest land. For the purposes of this classification, a boundary shall be established eliminating the area from the district.

The black areas on this map indicate the forest land areas in Montana classified for forest fire protection by the State Forestry Board. In addition to the federal ownerships, the classified areas include 12,527,469 acres of state land and privately owned lands. (Office of the State Forester 1965)



History: 76-13-109, MCA; IMP, 75-13-107, MCA; Eff. 12/31/72; TRANS, from Dept. of Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95.

36.10.102 FIREFIGHTING EQUIPMENT REQUIRED (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-101, MCA; Eff. 12/31/72; REP, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. of Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95.

36.10.103 VEHICLE EXHAUST AND SPARK ARRESTOR REQUIREMENTS (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-125, MCA; Eff. 12/31/72; REP, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. of Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95.

36.10.104 PATROLLING AND FIRE CREWS (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-101, MCA; Eff. 12/31/72; REP, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. of Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95.

36.10.105 FIRE CACHE (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-101, MCA; Eff. 12/31/72; REP, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. of Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95.

36.10.106 FOREST ACTIVITY RESTRICTIONS (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-101, 76-13-121, MCA; Eff. 12/31/72; REP, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. of Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95.

36.10.107 FOREST CLOSURE-PERMITS (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-101, MCA; Eff. 12/31/72; REP, 1980 MAR p. 2652, Eff. 1/2/81; TRANS, from Dept. of Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95.

36.10.108 DEBRIS DISPOSAL (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-121, 76-13-126, MCA; Eff. 12/31/72; REP, 1980 MAR P. 2652, Eff. 1/1/81; TRANS, from Dept. of Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95.

36.10.109 FIREFIGHTING EQUIPMENT REQUIRED (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-101, MCA; NEW, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. of Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95; REP, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.110 VEHICLE EXHAUST AND SPARK ARRESTER REQUIREMENTS (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-125, MCA; NEW, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95; REP, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.111 FIRE TOOL (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-101, MCA; NEW, 1980 MAR p. 2652, Eff. 1/1/81; AMD, 1981 MAR p. 362, Eff. 4/16/81; TRANS, from Dept. of Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95; REP, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.112 CORRECTION OF HAZARDS AND PATROLLING (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-101, MCA; NEW, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95; REP, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.113 FIRE CREW (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-101, MCA; NEW, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95; REP, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.114 SMOKING AND LUNCH FIRES (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-121, 76-13-123, 76-13-124, MCA; NEW, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95; REP, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.115 DEBRIS DISPOSAL (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-121, 76-13-126, MCA; NEW, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95; REP, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.116 NOTICE AND PUBLICITY (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-110, MCA; Eff. 10/21/72; REP, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. of Nat. Res., C. 259, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95.

36.10.117 REVIEW OF REQUIREMENTS (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-110, MCA; Eff. 10/31/72; REP, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. of Nat. Res., C. 259, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95.

36.10.118 POWERLINE INSPECTIONS (REPEALED)

History: 76-13-109, MCA; IMP, 76-13-101, 76-13-201, MCA; NEW, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. of Nat. Res., C. 259, L. 1981, Eff. 7/1/81; TRANS, 1995, MAR p. 1958, Eff. 7/1/95; REP, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.119 FOREST ACTIVITY RESTRICTIONS

(1) In areas designated by public proclamation by the administrator, division of forestry, as areas of high fire hazard, the administrator may request all persons, firms, or corporations present or engaged in any activity in the areas to voluntarily cease operations or to adjust working hours to less critical periods of the day. In the event such a request is refused, the administrator may issue a written order directing compliance.

History: 76-13-109, MCA; IMP, 76-13-101, 76-13-121, MCA; NEW, 1980 MAR, p. 2652, Eff. 1/1/81; TRANS, from Dept. of Nat. Res., C. 259, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95.

36.10.120 FOREST CLOSURE

(1) During periods of dangerous fire conditions, no person may enter or be upon those forest lands designated by public proclamation by the governor of the state of Montana as areas of dangerous fire hazard except under written permit issued by a recognized agency.

(2) Permits to enter upon such areas during the closure may be issued by the recognized agency upon a showing of real need by the applicant. Permits may be issued to those persons having actual residence as a permanent or principal place of abode in the forest lands designated or to persons engaged in non-fire hazardous employment.

(3) However, no permit may be required of persons engaged in either firefighting, fire prevention, or law enforcement who are engaged in official business.

History: 76-13-109, MCA; IMP, 76-13-101, MCA; NEW, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95.

36.10.121 REQUESTS FOR REVIEW

(1) If any operator believes that in his case any requirement of a recognized agency is excessive, the operator may request the administrator, division of forestry, to review the requirements. If in the opinion of the administrator any or all are not necessary in the interest of public safety, he may make such changes as he considers advisable.

History: 76-13-109, MCA; IMP, 76-13-110, MCA; NEW, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95.

36.10.122 APPLICABILITY

(1) The forest fire rules, ARM 36.10.123 through 36.10.132 are in effect each year on classified forest lands during the forest fire season May 1 to September 30 inclusive, or any legal extension thereof. Requirements pertaining to motor vehicles do not apply to those being operated solely on roads that are a part of federal or state maintained highway systems or on any paved public road.

History: 76-13-109, MCA; IMP, 76-13-109, 76-13-125, MCA; NEW, 1980 MAR p. 2652, Eff. 1/1/81; TRANS, from Dept. Nat. Res., C. 529, L. 1981, Eff. 7/1/81; TRANS, 1995 MAR p. 1958, Eff. 7/1/95; AMD, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.123 DEBRIS BURNING

(1) The person conducting the burn shall obtain written authorization from the recognized fire protection agency before igniting any open fire during the legal forest fire season. The fire protection authority may deny, restrict, or rescind any authorization by notifying the person conducting the burn.

(2) All burning must comply with the department of environmental quality or state/county/local open burning regulations.

(3) Written authorization is not required for campfires.

History: 76-13-109, MCA; IMP, 76-13-121, MCA; NEW, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.124 CAMPFIRES

(1) Campfires cannot be left unattended and must be completely extinguished.

(2) All campfires must be constructed in cleared or bare areas, and not allowed to spread beyond the established ring, pit, grate, or container.

(3) Anyone igniting a campfire is required to have fire tools listed in ARM 36.10.130(4).

History: 76-13-109, MCA; IMP, 76-13-123, MCA; NEW, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.125 RAILROADS AND POWERLINES

(1) Railroad and powerline companies are required to prepare and annually update working agreements with recognized fire protection agencies. These agreements must address safety and fire response procedures; and identify, remove, prevent, modify, abate, or correct forest fire hazards and risks associated with railroad and powerline company operations.

History: 76-13-109, MCA; IMP, 76-13-101, 76-13-201, MCA; NEW, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.126 EQUIPMENT

(1) All internal combustion engines must be equipped with an approved and effective spark-arresting system, as established in the national wildfire coordinating group's Spark Arrester Guides. Spark-arresting devices must be marked, properly installed, and maintained in accordance with the guides. The following vehicles are exempt:

(a) automobiles and light trucks of less than 23,000 GVW when all exhaust gases pass through a properly installed and maintained exhaust system, baffle-type muffler, and tailpipe. Vehicles with glass-pack mufflers do not qualify for the exemption;

(b) heavy-duty trucks of 23,000 GVW or greater, with a muffler and vertical stack exhaust system extending above the cab; and

(c) vehicles with other spark-arresting systems providing equal or increased effectiveness. Such vehicles must be inspected and have written authorization from the recognized fire protection agency.

(2) Equipment used for commercial, ranching, or industrial activities must meet the fire extinguisher and tool requirements listed in ARM 36.10.130(5).

History: 76-13-109, MCA; IMP, 76-13-125, MCA; NEW, 1996 MAR p. 2183, Eff. 6/7/96.

36.10.127 FLAMING AND GLOWING SUBSTANCES

(1) All flaming and glowing substances, including but not limited to, lighted cigarettes, cigars, ashes, and matches, must be extinguished before being discarded.

(2) Smoking is allowed only at areas free of flammable or combustible material. Examples of these areas include a graveled road or an enclosed vehicle.

History: 76-13-109, MCA; IMP, 76-13-121, 76-13-123, 76-13-124, MCA; NEW, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.128 FIREWORKS

(1) Use of fireworks is prohibited on all classified forest lands unless written authorization is obtained from the recognized fire protection agency. Authorization will only be considered between June 24 and July 5, inclusive, to coincide with the legal dates for the sale of fireworks in Montana.

History: 76-13-109, MCA; IMP, 76-13-106, MCA; NEW, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.129 WILDLAND/URBAN INTERFACE

(1) County governments without subdivision wildfire protection standards are encouraged to establish standards for all new subdivisions by January 1, 2000.

(2) The Fire Protection Guidelines for Wildland/Residential Interface Development, (DSL/DOJ, 1993), is available for use to assist counties in the development of standards.

History: 76-13-109, MCA; IMP, 76-13-101, 76-13-1604, 76-13-106, MCA; NEW, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.130 FIRE EXTINGUISHERS AND FIREFIGHTING TOOLS

(1) Chainsaw operators shall carry a fully charged and operable fire extinguisher, minimum-capacity 8-ounce liquid or 1-pound dry chemical, with a 4BC or higher rating.

(2) Vehicles and equipment, mobile or stationary, with a combustion engine/motor used for commercial, ranching, or industrial activities must have one

operable, dry-chemical fire extinguisher with a minimum 2-1/2 pound capacity and 4BC or higher rating.

(3) Chainsaw operators shall maintain one usable shovel at chainsaw-fueling sites.

(4) All persons igniting a campfire shall have one usable shovel and bucket. Persons igniting a barbecue need not have a shovel or bucket if the ashes are not removed from the container and the ashes or container are not placed on or near combustible material.

(5) All commercial, ranching, or industrial activities must have:

(a) One usable shovel or pulaski with each vehicle and equipment with an internal combustion engine/motor, mobile or stationary.

(b) One backpack pump with each vehicle and with any equipment, mobile or stationary, used off road, with an internal combustion engine/motor, that cannot be used to build fireline and is being operated on combustible material.

(6) Other types of firefighting tools that provide increased efficiency or effectiveness may be substituted by written authorization from the recognized fire-protection agency. For example, a "combi" firefighting tool may be substituted for a shovel or pulaski.

History: 76-13-109, MCA; IMP, 76-13-101, MCA; NEW, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.131 CORRECTION OF HAZARD AND UNUSUAL CIRCUMSTANCES OR EVENTS

(1) The recognized fire-protection agency may require identified wildland-fire hazards and/or risks be halted, prevented, abated, removed, disposed of, mitigated, or patrolled. This applies to public, private, nonprofit, commercial, and/or residential circumstances or events.

History: 76-13-109, MCA; IMP, 76-13-101, MCA; NEW, 1996 MAR p. 1502, Eff. 6/7/96.

36.10.132 DEFINITIONS Unless the context requires otherwise, to aid in the implementation of the forest fire rules and regulations and as used in these rules:

(1) "Backpack pump" means a 5-gallon minimum, standard galvanized metal, fiberglass, or rubberized backpack water container with attached handpump; full of water at all times.

(2) "Bucket" means a metal, plastic, canvas, or fiberglass container capable of holding at least one gallon of water. Motorcycle helmets qualify.

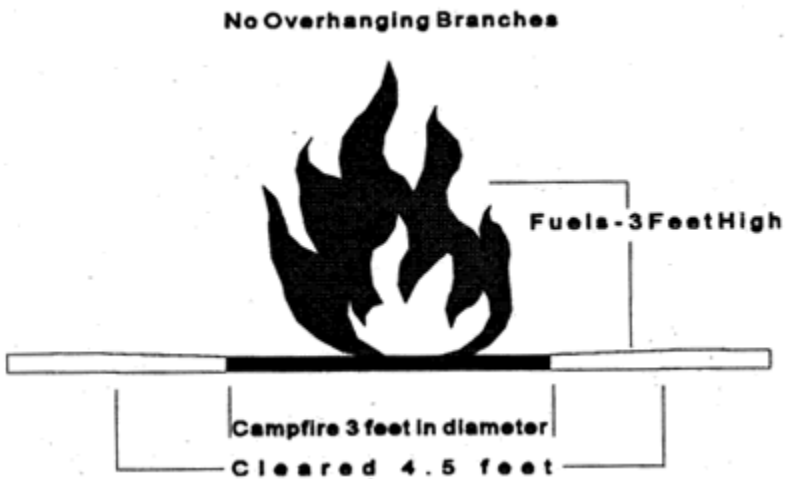
(3) "Campfire" means a fire set for cooking, warming, or ceremonial purposes which meets the following criteria:

(a) not more than three feet in diameter or height;

(b) void of overhanging branches;

(c) all combustible material is cleared at least one and one-half times the diameter of the fire; or

(d) a barbecue in a noncombustible container.



- (4) "Combi tool" means a tool combining a shovel and pick.
- (5) "Department," as defined in 76-13-102(2), MCA, means the Department of Natural Resources and Conservation as provided for in 2-15-3301, MCA.
- (6) "Firewarden" includes the following:
 - (a) a person employed by a local government fire protection entity provided for in Title 7, chapter 33, MCA, by the state of Montana, by the federal government, or by any other governmental or nongovernmental entity the department recognizes as a fire-protection agency. A firewarden must meet the qualifications of a firewarden as provided in 76-13-116, MCA, and ARM 36.10.133; and
 - (b) "firefighter," as that term is used in ARM 36.10.134.
- (7) "Fireworks" means as defined in 50-37-101, MCA.
- (8) "Forested land" means land that has been classified as forest land by the department and has enough timber, standing or down, slash, or brush to constitute in the judgment of the department a fire menace to life or property. Grassland and agricultural areas are included when those areas are intermingled with, or contiguous to and no further than one-half mile from areas of forest land.
- (9) "Hazard" means a condition that promotes the ignition and/or spread of a wildland fire.
- (10) "Open fire" means the burning of a bonfire, rubbish fire, or other fire in an outdoor location where fuel being burned is not contained in a closed incinerator, or outdoor fireplace. Barbecue pits and burn barrels are considered open fires and therefore require a burning permit (see ARM 36.10.123).
- (11) "Pulaski" means an ax with a medium size sharp grub hoe opposite the ax blade.
- (12) "Recognized agency" means an agency organized for the purpose of providing fire protection and recognized by the department as giving adequate fire protection to lands in accordance with rules adopted by the department.
- (13) "Risk" means an action or device that could cause a wildland fire to ignite.
- (14) "Shovel" means vehicle, equipment, and chainsaw operator shovels that have a minimum overall length of 36 inches and a round pointed shovel head with a minimum width of six inches.
 - (a) Shovels required for campfires must be at least 24 inches in length with a pointed shovel head. Folding handles qualify.

History: 76-13-104, 76-13-140, MCA; IMP, 76-13-104, 76-13-140, MCA; NEW, 1996 MAR p. 1502, Eff. 6/7/96; AMD, 2008 MAR p. 2559, Eff. 12/12/08.

36.10.133 FIREWARDEN QUALIFICATIONS AND DUTIES

(1) All firewardens may perform the duties prescribed in (3) on private, state, or state-protected federal lands.

(2) To qualify as a firewarden, a person must possess knowledge of wildland fires and be able to prevent, detect, suppress, or investigate wildland fires, and to coordinate, or in any manner facilitate, the furtherance of the fire policy provided for in 76-13-115, MCA.

(3) In addition to the duties prescribed in 76-13-116, MCA, a firewarden is responsible for carrying out the following duties:

(a) perform as a liaison between local, state, and federal agencies, incident management teams, and suppression forces as relates to wildland fire;

(b) coordinate training, prevention, detection, suppression, or mitigation of wildland fire activities between local, state, and federally recognized fire-protection agencies; and

(c) assist in determining the origin and cause of wildland fires and in recovering wildland fire-suppression costs and, if necessary, assist with the criminal prosecution of wildland fire-related criminal offenses.

History: 76-13-104, MCA; IMP, 76-13-104, MCA; NEW, 2008 MAR p. 2559, Eff. 12/12/08.

36.10.134 LEGAL REPRESENTATION FOR STATE FIREFIGHTERS

(1) The department shall pay reasonable attorney fees and costs for outside legal counsel to defend a firefighter employed by the department against a criminal prosecution for a good faith act or omission by the firefighter arising from the firefighter's performance of duties during a wildfire. The department may determine whether the firefighter's act or omission was in good faith and arising from the performance of the firefighter's duties during a wildfire. The requirement to pay attorney fees and costs does not apply to any post-conviction legal proceedings.

(a) In determining whether a firefighter's act or omission was in good faith and arose from the firefighter's performance of duties during a wildfire, the department will consider, in addition to the factors contained in ARM 36.10.133(2) and (3), any other factors that the department determines are, on a case-by-case basis, relevant to that determination.

(2) In determining whether attorneys fees and costs are reasonable, the department will compare those charged with those that have been, or are normally charged under the circumstances in the county in which the criminal defense takes place, or if the department considers it necessary, those that are charged within the state or in states surrounding Montana.

(a) The department will take into account the complexity of a criminal defense in determining whether attorneys fees and costs are reasonable.

(b) The department will not pay attorneys fees and/or costs that exceed those that are reasonable.

History: 76-13-140, MCA; IMP, 76-13-140, MCA; NEW, 2008 MAR p. 2559, Eff. 12/12/08.

Rules 36.10.135 through 36.10.160 reserved

36.10.161 FORMULA TO SET LANDOWNER ASSESSMENTS FOR FIRE PROTECTION

(1) On or before August 1, 1994, the department shall, pursuant to 76-13-207, MCA, set the annual fire assessment fee due from landowners pursuant to Title 76, chapter 13, parts 1 and 2, MCA. The total of all statewide landowner assessments must be as equal as administratively possible to but no greater than one-third of the amount appropriated by the legislature to fund the protection costs.

(2) The individual assessments must be established using the following criteria:

(a) Each person who is responsible for fire protection pursuant to 76-13-108 and 76-13-201, MCA, and for whom the department provides fire protection, must be assessed a per capita landowner fee. The total per capita landowner assessments statewide from persons who own 20 acres or less of land for which the department provides protection must be as close as administratively possible to 50% of the total private landowner assessments.

(b) A person who owns more than 20 acres of land for which the department provides protection shall, in addition to the fee assessed pursuant to (a) , pay a per acre fee for each whole acre that the person owns in excess of 20 acres. The total of all assessments statewide from persons who own more than 20 acres must be as close as administratively possible to 50% of the total statewide assessment.

(3) Except as provided in (a) , the per capita and per acre fees set for 1994 must remain in effect for subsequent years.

(a) The department shall reset the per capita and per acre fees whenever:

(i) it is necessary to reset fees to obtain the amount appropriated by the legislature; or

(ii) the fees assessed statewide pursuant to (2) (a) on persons who own 20 acres or less of land for which the department provides protection obtain more than 55% or less than 45% of the total amount appropriated by the legislature.

(b) whenever the department resets the fees pursuant to (a) , it shall do so in accordance with (2) and the fees must remain in effect until either of the conditions in (a) is met.

History: 76-13-109, MCA; IMP , 76-13-105, 76-13-201, and 76-13-207, MCA; NEW , 1994 MAR p. 35, Eff. 1/14/94; TRANS , 1995 MAR p. 1958, Eff. 7/1/95; AMD , 1996 MAR p. 773, Eff. 3/22/96.